

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WISCONSIN

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IN RE:

Darlene Bates

Chapter 13

Debtors.

Case No. 18-28918-gmh

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**NOTICE OF OBJECTION AND OBJECTION TO  
US BANK PROOF OF CLAIM #1**

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Darlene Bates, the debtor in the above-captioned case, through her attorney, Zachary J. Kluck, has filed papers with the court objecting to Proof of Claim #1 filed in the case by the US Bank Trust NA pursuant to Bankruptcy Rule 3007.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the court to grant the relief requested, or if you want the court to consider your views on the request, then on or before 30 days from the date of this notice, you or your attorney must file with the court a written request for hearing which shall contain a short and plain statement of the factual and legal basis for the objection. File your written request at:

U.S. Bankruptcy Court  
120 North Henry Street, Room 340  
Madison, WI 53701-0548

If you mail your request to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Attorney Zachary J. Kluck  
Zerbst & Kluck, S.C.  
2000 Engel Street, Suite 101  
Madison, Wisconsin 53713

Trustee Mark Harring  
131 W. Wilson Street, Suite 1000  
Madison, Wisconsin 53703

If you, or your attorney, do not take these steps, the court may decide that you do not oppose the relief sought in the objection and may enter an order on the objection.

The objection to this claim is based upon the attached affidavit.

THEREFORE, the debtor, by her attorneys, requests and order from the court for an Order stating that only amount owed on the mortgage as of the date of filing is the principal balance in the amount of \$76,950.55.

Dated this 13<sup>th</sup> day of May, 2019.

ZERBST & KLUCK, SC  
Attorneys for the debtors

By: /s/ Zachary J. Kluck  
Zachary J. Kluck  
State Bar No. 1075837  
2000 Engel Street, Suite 101  
Madison, Wisconsin 53713  
Direct Phone: (608) 316-3806  
Fax: (608) 223-1966

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**DECLARATION IN SUPPORT OF OBJECTION TO  
US BANK PROOF OF CLAIM #1**

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STATE OF WISCONSIN     }  
                                      }  
DANE COUNTY               }     ss.

Zachary J. Kluck, being so advised, declares in support of the debtor's objection to US Bank's Proof of Claim #1:

1. That I am an adult resident of the State of Wisconsin, duly authorized to practice law in this court, and am the attorney of record for the debtor in this action.

2. That this affidavit is based upon information provided to me by the debtors, personal information, and the proofs of claim filed in this case.

3. On November 27, 2018, US Bank Trust NA filed Proof of Claim #1.

4. The Proof of Claim indicates that there is \$129,327.17 for a total amount owed on the claim. The amount owed is under the terms of a Note and Mortgage on the debtor's homestead.

5. The arrearage is stated at \$72,877.96. The annual interest rate is 7.375%.

6. The arrearage is claimed to be due for missed mortgage payments, unpaid interest, fees and costs due, escrow, and late charges, among others.

7. The Debtor objects to the amount stated on the Proof of Claim. The Debtor has been making her mortgage payments and is not behind on her mortgage. The Debtor therefore also objects that late fees should be charged.

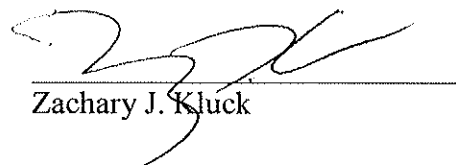
8. The bank has misapplied payments made to the bank by the Debtor and therefore incorrectly calculated both the total amount due and the arrearage.

9. The Debtor objects to the escrow amount owed. An agreement with the bank and court orders in prior cases have all stated that the Debtor would pay the taxes and insurance directly to the county and the insurance company, respectively. The bank ignored those agreements and court orders and paid the taxes in violation of said documents. This caused the mortgage company to erroneously state the mortgage was past due when it wasn't.

10. The Debtor believes that she is current on her mortgage payments and that there is no arrearage owed to US Bank.

11. Since the Debtor is current on her mortgage payments and US Bank improperly paid taxes and insurance, the Debtor is asking the Court for an Order stating that only amount owed on the mortgage as of the date of filing is the principal balance in the amount of \$76,950.55.

Dated this 13<sup>th</sup> day of May, 2019.



Zachary J. Kluck

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WISCONSIN

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**CERTIFICATE OF MAILING**

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STATE OF WISCONSIN    }  
                                      }  
DANE COUNTY            }       ss.

Robert Fisher, being first duly sworn on oath, deposes and states as follows:

I, the undersigned, being first duly sworn on oath, depose and say that on May 13, 2019, I deposited in the U.S. Mail at the above captioned county and state, a true and correct copy of the Notice of Objection and Objection to US Bank Proof of Claim #1 to the parties listed below with return addresses in case of non-delivery unless parties are served thru the CM/ECF System sponsored by the Court.

BSI Financial Services  
1425 Greenway Dr. Ste 400  
Irving, TX 75038

  
\_\_\_\_\_  
Robert Fisher

Signed on May 13, 2019.